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Suit alleges ER misdeeds

Posted: Sunday, Feb 25, 2007 - 12:34:39 am MST

By CANDACE CHASED



Dr. Scott Rundle is shown in June 2006 outside the emergency room at Kalispell Regional Medical Center. Rundle has filed a multimillion-dollar lawsuit against Silvertip Emergency Physicians, the company that provides doctors for the emergency room. Karen Nichols file photo/Daily Inter Lake

The Daily Inter Lake

A former emergency-room doctor filed a lawsuit Tuesday that alleges defamation, civil conspiracy, wrongful discharge and other illegal acts by Silvertip Emergency Physicians, the company that provides emergency-room care at Kalispell Regional Medical Center.

Dr. Scott Rundle filed the legal action, which includes allegations that Silvertip's physicians covered up another physician's alcohol abuse, ignored Rundle's concerns over patient-care quality and made referrals more for financial gain than for patient care.

Rundle requests more than \$16 million in compensation.

Silvertip Emergency Physicians, which contracts to provide physicians in the KRMC emergency room, did not answer the Inter Lake's requests for a response. (See related story for comments from Kalispell Regional Medical Center.)

Rundle, 39, was a member of Silvertip until October. He became celebrated

in the Flathead as the emergency-room physician who refused to give up on reviving 3-year-old drowning victim Jacob Felghtner in 2004. The boy recovered after two hours of clinical death.

Rundle also served as medical director of Kalispell Fire and Ambulance Service, Flathead County EMS Service, Marion Ambulance Service and Flathead Valley Community College's paramedical program.

In the lawsuit, Rundle alleges Silvertip physicians defamed his character, reputation and clinical competence. He said he was "coerced into providing Silvertip with his resignation" on Oct. 12, 2006. He maintains their motive was retaliation for the concerns he raised over patient care and his refusal to go along when another physician was targeted and pushed out of the group.

The suit names Dr. Keith Lara, director of the corporation, and eight other unnamed members of Silvertip.

Kalispell Regional Medical Center was not named as a party to the lawsuit.

According to the lawsuit, Silvertip members allegedly falsely accused Rundle of using illegal drugs, writing illegal prescriptions and refusing to answer pages while on duty.

The physician also said in the suit that Silvertip physicians made false allegations that he sexually harassed nurses and other staff and that he had contracted and then transmitted herpes to at least two medical center employees.

He claimed in the court filing that he was the victim of false allegations that he had engaged in inappropriate sexual behavior with another member of the staff while on duty at Kalispell Regional Medical Center.

The suit charges that all the rumors and allegations were false and that the Silvertip defendants knew they were lies.

"These allegations have, as designed, spread not only throughout the KRMC medical community, but to the entire medical community in Western Montana," the suit says.

Rundle was hired by Silvertip in July 2000. According to the lawsuit documents, he and other Silvertip physicians each earned about \$300,000 in 2005, compared to other emergency-room doctors within a 120-mile radius earning from \$90,000 to \$150,000.

According to the suit, Kalispell Regional Medical Center pays Silvertip 70 percent of the gross dollars billed for services rendered by the group's emergency-room doctors.

Since leaving Silvertip, Rundle has worked part time, earning about \$90,000 per year, as an emergency room physician in the Flathead Valley and Polson area.

Attorney Scott Hilderman of Johnson, Berg, McEvoy & Bostock of Kalispell represents Rundle and filed the lawsuit in Flathead County District Court. Hilderman would not comment except to say that he has specific facts and evidence to back up every allegation in the suit.

The lawsuit states that Rundle first noticed substantial changes in his treatment after he voiced numerous concerns about the quality of patient care provided by Silvertip.

These concerns included the removal of an emergency-room physician from Silvertip for "inappropriate and personal reasons" including that his personal appearance, which included a beard, was not up to par.

According to Rundle, the doctor, who isn't named to protect his privacy, was forced out in 2003 after unsubstantiated allegations that he used marijuana and had "an adverse trend" in his clinical care.

The lawsuit claims that the Silvertip physicians were led to believe that Velinda Stevens, the medical center's chief executive officer, wanted the physician removed from the group for "substandard patient care or disruptive behavior."

Rundle said this ER doctor was nearly always the highest-ranked Silvertip physician based on patient surveys. Because he didn't believe the allegations, Rundle asked to make an independent review of the doctor's patient charts.

"Rundle was warned by several group members that this was a bad idea and that he should go along with the vote to terminate Doctor's status with Silvertip to 'protect himself,'" the suit says.

In spite of the warnings, Rundle reviewed the charts of 17 patient cases in question and concluded the allegations of substandard care had no merit.

He then presented his findings to other members of Silvertip, but said all the members of the group refused to review the findings. Some expressed anger at Rundle for investigating the charges.

At that meeting, he was told that Stevens still wanted the physician removed and that he could call her himself. Rundle did call her and allegedly was told that the medical center had no concerns about the physician's work, but the other Silvertip members allegedly refused to believe him.

At a subsequent meeting, Rundle voted to retain the doctor but others voted to remove him, saying that he was "a bad and dangerous doctor." But the group allowed him to work for four more months so other physicians didn't have to work additional shifts.

Rundle also claims he raised concerns that doctors at Kalispell Regional Medical Center were pressured to admit patients into HealthCenter Northwest rather than the nonprofit medical center when it wasn't in the patients' best interests.

Rundle said in the filing that the health center (which is licensed as a private hospital) "does not provide the same level of care for patients as KRMC." However, the Silvertip physicians, as investors in HealthCenter Northwest, receive quarterly payments from net receipts.

In another potentially damaging allegation, Rundle claims in the lawsuit that Silvertip had retained a physician with a drinking problem.

"While on duty for KRMC, this emergency room physician overdosed on alcohol and was admitted into the emergency room as a patient and placed on a mechanical ventilator for two days."

Rundle claims that the incident was ordered "covered up" by Silvertip members. He said he was warned not to speak about the episode.

In the lawsuit, Rundle alleges that Silvertip members misused their peer review process to cover up malpractice by its physician as well as to attack other physicians for personal reasons.

The dispute involving Rundle came to a head at an Oct. 11 meeting of all Silvertip members. According to the lawsuit, Stevens, the medical center CEO, appeared at the beginning of the mediation and requested that Silvertip move beyond the dispute and recommended that Lara resign his position as director of Silvertip. Stevens then left the room.

After that, the lawsuit says, Lara restated the accusations about drug use, illegal prescriptions, refusal to answer pages and inappropriate sexual conduct.

"Defendants also falsely accused Rundle of an inappropriate relationship with a female firefighter while serving as (medical) director of Kalispell Fire and

Ambulance Service," the suit said.


The suit reports that Lara then said that Rundle had put the group's contract with the medical center in jeopardy and that Rundle had put the group at risk for a sexual harassment claim.


Rundle claims he was then given a choice of getting fired, resigning or going into rehab. When he asked rehab for what, he said none of the members would give him a specific problem.

The lawsuit's specific charges against the Silvertip group include defamation, intentional infliction of emotional stress, civil conspiracy, wrongful discharge and breach of contract.

Rundle requests direct damages of \$5.4 million, \$800,000 for wrongful discharge, consequential damages "in an amount to be proven at trial," and punitive damages of \$10 million.

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The Problem

July 23, 2002

- Unhealthy Hospitals - 103,000 preventable deaths in 2000 - Chicago Tribune FYI

- The next time someone suggests that you to enter a clinical trial at a hospital, beware:
- "The number of people needlessly killed by hospital infections is unbelievable, but the public doesn't know anything about it. For years, we've just been quietly bundling the bodies of patients off to the morgue while infection rates get higher and higher." That's what Dr. Barry Farr, a leading infection-control expert told The Chicago Tribune.

- The Chicago Tribune's investigative series, UNHEALTHY HOSPITALS, penetrates the healthcare industry's long hidden facts about the rising rate of infection-related, preventable hospital deaths. This comprehensive analysis of 5,810 hospitals nationwide, examined the records of 75 federal and state agencies, plus internal hospital files, patient databases and court cases around the nation. The Tribune calculated 103,000 deaths in 2000 from hospital grown infections--75% were preventable.

The Problem

- **In Hospital Deaths from Medical Errors at 195,000 per Year USA**

- Main Category: Medical Malpractice News

Article Date: 09 Aug 2004 - 13:00pm (UK)

An average of 195,000 people in the USA died due to potentially preventable, in-hospital medical errors in each of the years 2000, 2001 and 2002, according to a new study of 37 million patient records that was released today by HealthGrades, the healthcare quality company.

The HealthGrades Patient Safety in American Hospitals study is the first to look at the mortality and economic impact of medical errors and injuries that occurred during Medicare hospital admissions nationwide from 2000 to 2002. The HealthGrades study applied the mortality and economic impact models developed by Dr. Chunliu Zhan and Dr. Marlene R. Miller in a research study published in the Journal of the American Medical Association (JAMA) in October of 2003. The Zhan and Miller study supported the Institute of Medicine's (IOM) 1999 report conclusion, which found that medical errors caused up to 98,000 deaths annually and should be considered a national epidemic.

The Problem

Heath Care Costs (per patient/year)	Life Expectancy (in years)
<ul style="list-style-type: none">• United States	77.1 years
<ul style="list-style-type: none">• Canada	79.8 years
<ul style="list-style-type: none">• Spain	79.2 years
<ul style="list-style-type: none">• Japan	80.9 years

Source: World Heath Organization

The Problem

Country	Years of Healthy Living	Infant Mortality (per 1,000 births)
■ United States (males)	67.2 years	6.9
■ Sweden (males)	71.9 years	3.2
■ United States (females)	71.3 years	3.4
■ Italy (females)	74.7 years	4.6
■ San Marino (females)	75.9 years	5.3
■ Iceland (males)	72.1 years	
■ United States		
■ Japan		
■ Sweden		
■ France		
■ Denmark		
■ Source: World Health Organization		

White Paper for Patient Safety

a human life is valued between
4 to 9 million dollars in the US

Kip Viscusi,
economist at Harvard University

White Paper for Patient Safety

- Human loss due to errors in hospitals in US

195,000 deaths per year

- Economic impact

800 billion dollars to 1.8 trillion dollars

HealthGrades study 2004

White Paper for Patient Safety

US National Health Care Cost

\$1.6 trillion in 2002

15% of GDP

When deaths considered

30% of GDP

How Good Are We?

Category

Where do we rank

Years of healthy living

29th

Between Slovenia and Portugal

Overall quality of Health Care

37th

Between Costa Rica and Slovenia

Spending on Health Care

1st

Source: World Health Organization

White Paper for Patient Safety

“There are some who believe that this whole system has to be blown up and start over again, I happen to be one of those advocates.”

Dennis O'Leary, M.D., President of JCAHO (Joint Commission on Accreditation of Healthcare Organizations)
November 24, 2002,

What Prevents Improvement in Health Care

- Health Quality Improvement Act of 1986
- The Courts Rulings on Peer Review
- Big Business (Drug Companies and For-Profit Health Care
- The United States Military Establishment
- Organized Medicine, especially the AMA
- State Boards of Medicine

White Paper for Patient Safety

“ We have to turn the heat up on the hospitals ”

.....as.....

“ there's no economic incentive for hospitals to reduce errors because they make more money by treating the resulting problems.”

Professor Leape, MD

Harvard University-5/18/2005

State Medical Boards

Each state has its own Medical Board thus it depends on each state's budget. It is supposed to protect the consumer, yet has only jurisdiction over physicians' patient care, not over hospitals' administrators, attorneys and physicians involved in Medical Peer Review. Reports to the Medical Board are initiated by the administrators of hospitals and there is no sanction for false reporting.